

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GWANJUN KIM,

Plaintiff,

vs.

Case No. 1:06-cv-683

Hon. Robert J. Jonker

U.S. DEPARTMENT OF LABOR, et al.,

Defendants.

ORDER

This matter is now before the court on “EightCAP, Inc. and John Van Nieuwenhuyzen as president of EightCAP, Inc.’s motion for leave to file supplemental objection to magistrate’s [sic] report and recommendation” (docket no. 238).

On December 12, 2007, the undersigned issued a report and recommendation (the “R&R”) regarding a number of motions filed in this action. *See* docket no. 214. The R&R required that objections “must be served and filed with the Clerk of the Court within ten (10) days after service of the report” pursuant to W.D. Mich. LCivR 72.3(b). Plaintiff filed an objection to the R&R on December 19th. *See* docket no. 218. Defendants EightCAP, Inc., John Van Nieuwenhuyzen and Central Area Michigan Works! Consortium, through their attorneys, Richard R. Vary and Brian P. Swanson, filed extensive objections to the R&R on December 27, 2007, and later filed “amended objections” on December 29, 2007. *See* docket nos. 221, 223. Attorney Marilyn S. Tyree entered her appearance as co-counsel for defendants EightCAP, Inc. and John Van Nieuwenhuyzen as President of EightCAP, Inc. on January 15, 2008 and filed the present motion to file supplemental objections on January 25, 2008.

Defendants' proposed 76-page supplemental objection is untimely, having been filed nearly one month late. It is effectively a new dispositive motion, containing exhibits never made part of the present court record. Defendants' new co-counsel seeks leave to have the court allow the filing of the untimely objections because she was recently retained by defendant EightCAP's liability insurance carrier to provide additional representation for defendants EightCAP, Inc. and John Van Nieuwenhuyzen in this matter. *See* Affidavit of Marilyn S. Tyree, attached to defendants' brief in support of motion for leave. Counsel's explanation is not sufficient to allow the filing of these untimely objections. While it is not uncommon for the court to grant a pro se litigant a modest extension of time to file objections, this is not such a case. Defendants EightCAP, Inc. and John Van Nieuwenhuyzen are represented by counsel in this matter, and have already filed timely objections, and amended objections, to the R&R (docket nos. 221 and 223). Defendants are not entitled to file additional and untimely objections merely because their insurance carrier belatedly retained additional defense counsel. To allow this massive belated filing would be to simply recast the objections to the R&R as a new dispositive motion, absent the normal procedures for considering such a motion.

Accordingly, defendants' motion to file supplemental objections (docket no. 238) is **DENIED.**

IT IS SO ORDERED.

Dated: February 4, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge